

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JASON PAUL CHESTER,

CASE NO. 3:24-cv-05410-DGE

Plaintiff,

ORDER ON REPORT AND
RECOMMENDATION (DKT. NO.
6)

UNITED STATES OF AMERICA et al.,

Defendant.

This matter comes before the Court on United States Magistrate Judge David W.

Christel's Report and Recommendation counseling denial of Plaintiff's application to proceed *in forma pauperis*, denial of pending motions, and dismissal of the action without prejudice, as well as Plaintiff's objections. (Dkt. Nos. 6, 7.) The Court, reviewing *de novo*, adopts in full the Report and Recommendation.

Judge Christel identifies in his Report and Recommendation that Plaintiff's proposed complaint "does not properly identify a statutory cause of action in which Congress has waived sovereign immunity on behalf of the United States" and so "does not provide a plausible

1 explanation regarding how the United States of America has violated Plaintiff's rights or is
 2 liable." (Dkt. No. 6 at 3.) Judge Christel found that because Plaintiff "is attempting to sue the
 3 United States of America" without its consent, he "cannot cure the deficiencies to state a viable
 4 claim." (*Id.*) Because he found the proposed complaint failed to state a claim, Judge Christel
 5 recommended the application to proceed *in forma pauperis* be denied.

6 Plaintiff filed timely objections. (Dkt. No. 7.) Most of his objections do not address the
 7 contention that the United States enjoys sovereign immunity and must waive this immunity to be
 8 sued. (*Id.* at 1–2.) The only objection that remotely touches the subject is Plaintiff's reference to
 9 his prior lawsuit wherein he sought to advance a claim under the Administrative Procedures Act
 10 (APA). *See Chester v. U.S. Dept. of State, et al.*, 3:23-CV-05367-DGE. But the proposed
 11 complaint (Dkt. No. 1) in this action makes no mention of the APA, and Plaintiff's objection
 12 does not explain why or how the APA is applicable to his purported claims in this case.

13 Accordingly, and having considered the Report and Recommendation, Plaintiff's
 14 objections, and the remainder of the record *de novo*, the Court finds and ORDERS:

- 15 1. The Report and Recommendation is ADOPTED,
- 16 2. Plaintiff's application to proceed *in forma pauperis* is DENIED,
- 17 3. Plaintiff's complaint is DISMISSED without prejudice,
- 18 4. All other pending motions (Dkt. No. 5) are DENIED as moot, and
- 19 5. A copy of this order shall be sent to all parties and to the Honorable David W.
 20 Christel.

21 Dated this 2nd day of August 2024.

22 
 23 _____
 24 David G. Estudillo

1 United States District Judge
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24